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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LENETTE BARKER, Plaintiff, v. HIHC, LLC, A California Limited Liability Company; COLONY CONSOLIDATED, L.P., A Limited Partnership, and DOES 1 through 100, inclusive Defendants.	Case No.: 08-CV-01547-LAB-RBB **PLAINTIFF'S EXPARTE APPLICATION TO APPEAR TELEPHONICALLY AT EARLY NETURAL EVALUATION CONFERENCE & ORDER THEREON** **ENE HR DATE: September 17, 2008** **ENE HR TIME: 10:00 A.M.** **ENE HR DEPT: CHAMBERS** **HON. RUBEN B. BROOKS, MAGISTRATE JUDGE**

Plaintiff LENETTE BARKER through her attorneys of record hereby applies to this Honorable Court for an order allowing her to appear telephonically at the Early Neutral Evaluation Conference scheduled for September 17, 2008. Plaintiff was misdiagnosed Multiple Sclerosis in 1991. Commencing six years ago, Plaintiff began suffering significant degradation in her health including developing skeletal deformities. In particular her pelvis is being pulled up over the bottom three ribs on her right side – a condition that has not consistent with MS and had not previously been seen except in children with cerebral palsy. Plaintiff no longer leaves her home except for medical appointments. In the past years Plaintiff has had to travel to San Diego from her home in Corona on two occasions to be seen by physicians specializing in the treatment of cerebral palsy. Plaintiff stayed at Defendants' hotel during one of these medical visits to San Diego.

It would be a great physical hardship for Plaintiff to have to commute to San Diego – a commute of nearly 200 miles roundtrip and taking nearly four hours or more depending on traffic to attend the Early Neutral Evaluation Conference. Plaintiff is no longer able to travel on her own. As with each of her medical visits, Plaintiff's sister who lives in California City, California (in the Lancaster/Palmdale area, more than 200 miles from San Diego), would have to pick up Plaintiff at her home in Corona, and transport her to San Diego and back. Due to the distance to and time of the ENE, the trip would require an overnight stay at a hotel in San Diego.

Plaintiff's counsel has discussed Plaintiff's request to appear telephonically with counsel for Defendants', Tina I. Mangarpan, Esquire, who indicated that Defendants would not object to Plaintiff being allowed to appear telephonically, so long as Defendants could also appear telephonically.

Plaintiff, therefore, respectfully requests that this Honorable Court, taking into consideration her serious health conditions and the great hardship of having to appear in person, issue an order allow Plaintiff to appear telephonically at the Early Neutral Evaluation Conference on September 17, 2008. Plaintiff will be available telephonically at all times during the ENE Conference.

Dated: September 8, 2008 CENTER FOR DISABILITY ACCESS, LLP

By:____________________________
MARK D. POTTER
Attorneys for Plaintiff

ORDER

Having read and considered Plaintiff's Exparte Application to appear telephonically at the Early Neutral Evaluation Conference on September 17, 2008, and finding good cause therefore, Plaintiff is hereby given leave to appear telephonically at said ENE Conference.

IT IS SO ORDERED

Dated _______________ /s/ ____

HONORABLE RUBEN B. BROOKS,
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

BARKER V. HIHC, ET AL. Case #08-CV-01547-LAB-RBB

I, the undersigned, am over the age of eighteen years and am resident of San Diego County, California; I am not a party to the above-entitled action; my business address is 100 East San Marcos Blvd., Suite 400, San Marcos, California, 92069.

On September 8, 2008, I served the following document(s):

PLAINTIFF'S EXPARTE APPLICATION TO APPEAR TELEPHONICALLY AT EARLY NEUTRAL EVALUATION CONFERENCE & ORDER THEREON

Addressed to:
Tina I. Mangarpan, Esq.
FORD, WALKER, HAGGERTY & BEHAR
One World Trade Center, 27th Floor
Long Beach, CA 90831

☑ BY MAIL: I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Marcos, California.

☐ BY FACSIMILE: In addition to the service by mail as set forth above, I forwarded a copy of said documents via facsimile to the listed facsimile number.

☐ BY OVERNITE EXPRESS: I caused such envelope with postage thereon fully prepaid to be placed in the Designated Overnite Express drop box at San Marcos, California.

☐ BY PERSONAL SERVICE: I caused said documents to be personally served on all listed recipients via Diversified Legal Services.

Executed on September 8, 2008, from San Marcos, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Shelby Ramsey